National Coalition on BENEFITS

Testimony
Martin G Reiser
Manager, Government Policy
Xerox Corporation
And
Chairman, National Coalition on Benefits

Before

The U.S. House of Representatives
Energy and Commerce Committee
Subcommittee on Health
June 25th, 2009

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Mr. Chairman, and Members of the Committee, I want to thank you for the opportunity to testify about proposals to reform the U.S. health care system. I am here today on behalf of the National Coalition on Benefits, a coalition of 185 business trade associations and employers that joined together to work with Congress to facilitate the ability of employers to voluntarily maintain uniform health and retirement benefits for employees and retirees across states and localities.

The National Coalition on Benefits (NCB) was formed almost two years ago because we support health care reform that improves health care quality and reduces costs. We believe that individuals should have the responsibility to obtain health insurance and the health care delivery system should be improved through measures such as value purchasing, wellness and prevention, health information technology, and comparative effectiveness research that does not result in rationed care.

The National Coalition on Benefits along with over 190 companies and associations recently wrote to President Obama applauding his commitment to comprehensive, bipartisan health care reform for all Americans and access to affordable health care coverage. [1] We expressed our shared view that "a strategy to control costs must be the foundation of any effort to improve the health care system." I have included that letter in my written testimony.

For many years, the American people have sent two clear messages to elected officials about America's healthcare system. First, Americans want to see change and improvements in both the cost and access to health care. And, second, Americans like the health benefits they receive through their employer. The NCB believes the American people are right about both points: We do need change. However, such change should not erode the part of the health care system that is working.

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[1] Letter to President Obama, April 1, 2009, attached to testimony

We believe the employer-sponsored model works well because it allows the pooling of risks and because group purchasing lowers health care costs, enabling those who are less healthy to secure affordable coverage for themselves and their families. ERISA and its federal framework allows employers to offer equal, affordable and manageable benefits regardless of where their employees and retirees live and work. The members of NCB believe that the federal standard of ERISA (also known as the "preemption" standard) is a critical cornerstone to our health care system because it allows employers to offer uniform benefits to their employees, retirees and families without being subject to the confusing patchwork of mandates, restrictions and costly rules that vary from state to state. Equally important, the federal ERISA framework makes it possible for employers to adopt and consistently apply leading edge, innovative practices to improve their employees' wellness, address chronic diseases, reward high performance health care providers and implement numerous other vitally important strategies that directly translate into better health care for employees and families.

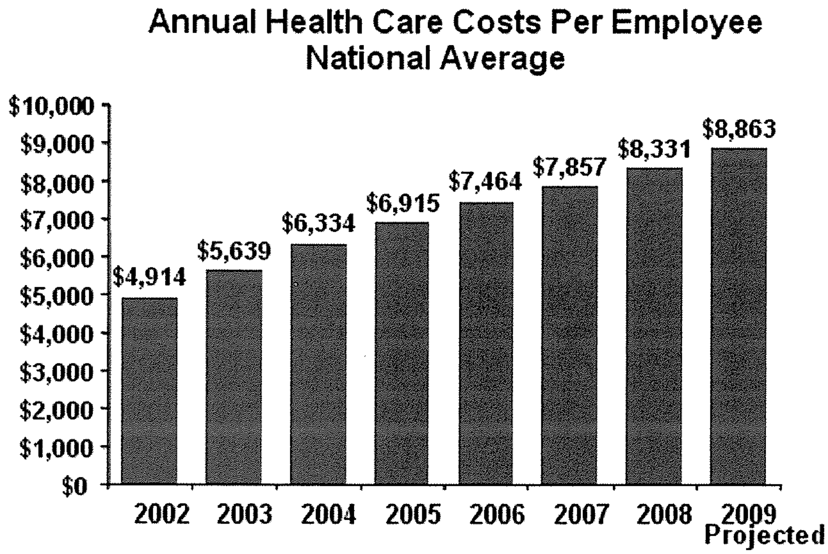
Employer-based plans typically waive pre-existing conditions and cannot increase premiums or limit coverage based on individual health status. HIPAA regulations ensure that people can move from job to job without concern for being denied coverage due to health status. More importantly, employers have a vested interest in the health and productivity of their workforce, and the employer-based system has consistently produced innovative health care solutions that improve productivity, reduce absence from work, and lower disability costs.

As good as it is, this system is increasingly at great risk, given the combination of cumulative increases in health care costs and the current severe economic downturn. Despite the positive actions of many employers, there are many problems to solve in the current U.S. health care system.

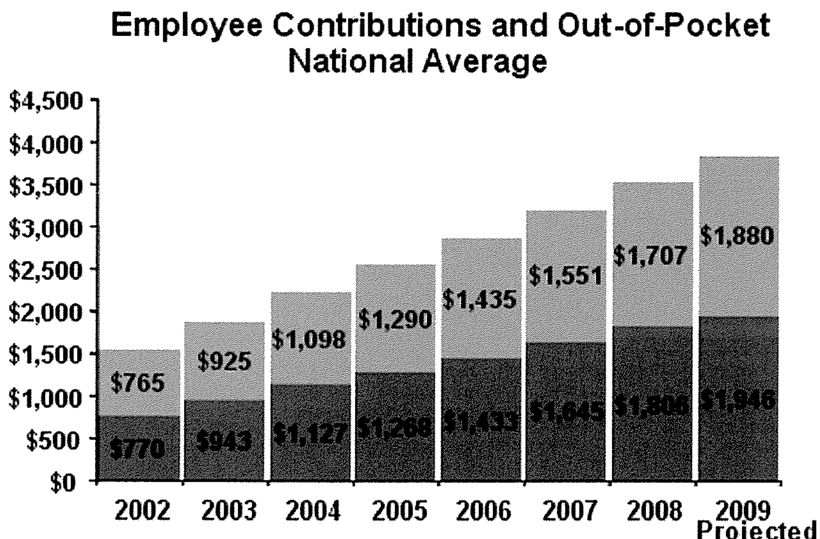
For decades, employers have provided health benefits for solid business reasons. However, our health care system is on a financially unsustainable path with costs rising at rates that far exceed economic growth. In particular, according to government estimates, over the period 2008-2018, average annual health spending growth (6.2%) is anticipated to outpace average annual growth in the overall economy (4.1%). By 2018, national health spending is expected to reach $4.4 trillion and comprise over one-fifth (20.3%) of GDP. The increase in overall health spending has a direct impact on health insurance premiums because premiums generally track the underlying growth of health services. Consequently, if we fail to address these underlying costs and improve our health care system, rising health care costs will threaten the viability of U.S. businesses of all sizes and put job security, pay increases and other vital employee benefits at risk for millions of American workers.

According to Hewitt Associates LLC data shown in Exhibit 1, annual large-employer health care costs (i.e., total costs for all health plan participants divided by the number of enrolled employees) have more than doubled since 2001 and are projected to reach $8,863 in 2009. Over the same period, annual employee contributions and out-of-pocket costs are expected to increase by 190 percent to $3,826.

Exhibit 1:



Source: Hewitt Health Value Initiative™



Source: Hewitt Health Value Initiative™

Average Employee Contribution

Average Employee Out-of-Pocket Costs

As President Obama has said, "Soaring health care costs make our current course unsustainable." The National Coalition on Benefits completely agrees. Unfortunately, we are concerned that the legislative proposal released last week does not provide meaningful cost savings for the overall health care system, especially in the near term. In an effort to expand coverage, cost containment has not received the priority it demands.

Over the course of the past two years, employers have worked to make clear the five fundamental issues that health care reform must properly address to preserve the employment-based system, control costs and lead to our support. To date, we have not seen legislative proposals where each of these core issues has been adequately resolved.

ERISA

We continue to strongly support the flexibility that ERISA provides in the offering of employer-sponsored health insurance coverage. If the objective is to build upon the employer-based system that successfully covers more than 170 million Americans, then employers must have the ability to determine how best to meet the needs of their employees and retirees. Additionally, allowing states or localities to require employers to comply with various mandates would further raise employer costs, stifle innovation in employer-sponsored coverage and result in unequal benefits for employees.

But simply retaining the federal framework is not sufficient if onerous or impractical requirements are added to ERISA itself. Since a fundamental tenet of health care reform is to allow Americans to keep the coverage with which they are satisfied, legislation should not include changes to ERISA or other laws that would risk hurting those who are highly satisfied with the health care coverage that they currently receive.

The National Coalition on Benefits strongly opposes provisions that alter the federal ERISA law remedy regime. The existing structure encourages early, out-of-court resolution of disputes, and provides a national uniform legal framework to provide both employers and employees with consistency and certainty. The current draft of the legislation would replace this successful structure with differing remedy regimes depending on where employers and employees obtain health coverage. The House bill would create three differing enforcement regimes: state law for coverage obtained INSIDE an exchange, ERISA's federal law regime for coverage obtained OUTSIDE an exchange, and Medicare's federal law regime for coverage obtained from the public plan option.

All these differing bodies of law are likely to result in differing decisions about plan determinations and would expose employers who obtain coverage through the exchanges to unlimited state law liability. Employers would be faced with understanding and administering plans to comply with 50 distinct remedies regimes. Instead of relying on the precedents of one federal regime, employers would need to become experts on the remedies laws, and the resulting court decisions, in every state where they employ workers.

Additionally, if the legislation exposes employers to state-based remedies law, the result will be a severe increase in their potential financial liability stemming from providing employees with health insurance and will discourage employers from offering generous and innovative health plans to their employees.

In other words, these legislative provisions would weaken the employment-based system. Some employers would likely determine that they could not expose their shareholders to the increased liability and would chose to drop coverage. More would conclude that one of the great strengths of the employment-based system – the freedom to innovate with plan design – would now become a potential liability, and the result would be greater rigidity and higher costs.

Now is the time where employers and employees are looking to Congress for real solutions that will put the nation on a sustainable path to controlling health care costs. Rather than subjecting employers to expensive and time-consuming litigation and differing enforcement regimes under both federal and state laws, we urge that you retain the ability for employers to offer highly valued health benefits to their employees under ERISA's uniform regulatory and enforcement framework.

Employer Mandate

Faced with a severe and continuing economic crisis, employers simply cannot absorb new burdens, such as specific coverage levels or payment requirements, no matter how well intentioned.

We are gravely concerned about proposals that would limit the flexibility of employers at a time when our country needs employers to create jobs and invest in future growth. Employer mandates of any kind, including requirements to "pay or play" are not the answer to the healthcare problem because they undermine our ability to address two key goals of health reform: coverage and affordability. In fact, mandates limit the flexibility and innovation that serves as the foundation of voluntary employer provided health care.

This voluntary and flexible system has worked for over six decades and today provides the backbone of the coverage model for over 170 million Americans. Weakening this system would undermine the very goal we are trying to accomplish - making insurance more accessible and affordable for those who do not have health insurance. Most significantly to employers - mandates fail to address the shared problem facing all employers – the soaring cost of health care.

Mandated Minimum Benefit

Any minimum standards for benefits need to be affordable for individuals and taxpayers. Individuals should be able to determine the level of benefits they need and can afford for their family. Employers must also be able to continue to design the benefit plans that make sense for their workforce and consider the full range of health plan options available in a reformed health care market.

The Public Plan

A public plan, particularly combined with the impact of Medicare, Medicaid, and other public plans, cannot operate on a level playing field and compete fairly if it acts as both a payer and a regulator. The public plan's unfair competitive position, both by its size and regulatory authority, will merely shift additional costs to the private sector and employees covered by private plans.

A public plan that would use government mandated prices would directly result in a cost-shift to other payers and thus would do nothing to address the underlying problems that make health coverage unaffordable for many. Improving the cost, quality and the efficiency of health delivery are key imperatives for reform.

We already experience that cost-shift today as Medicare, the largest payer in the United States, consistently underpays providers. Employers and our covered employees and families also see higher price tags in their medical plans because Medicare and Medicaid payment rates are set by law and are comparatively lower than rates for employer-sponsored group health plans. It is no secret that providers receive much higher payments from private insurance plans than from public plans.

Economists vary in their views about how much of the difference between employer-sponsored and public payments truly represents "cost shifting" from public to private plans. But, the fact remains that Medicare and Medicaid reimburse providers at much lower levels than commercial payers. For example, according to a 2008 Milliman actuarial study,[2] Medicare reimburses hospitals at an average of 70% of private plan reimbursements and pays physicians 78% of what they receive from private plans. Medicaid reimburses hospitals at an average of 67% of private plan rates and pays physicians at an average of 53% of private plan rates.

Medicare's underpayment results in private payers and the people covered by these plans making up the shortfall – and increases the cost to employers of providing quality health care coverage. A "public plan" option administered by the federal government is inherently destabilizing to the employed-based health insurance benefit.

Employer plans continually innovate though technology, new programs that drive value and improve quality, while the Medicare system tends to rely primarily on

[2] Milliman, *Hospital and Physician Cost Shift: Payment Level Comparison of Medicare, Medicaid & Commercial Payers* study, December 2008.

the fee-for-service, volume based payment systems without a focus on care management and care coordination.

Tax Exclusion

Changes to the taxation of employer-provided health care are also not the answer to health care reform. These policies would increase employer and employee costs and could have a chilling impact on the part of our health care system that provides coverage to all-comers at a community rated premium irrespective of health risk or preexisting conditions. Moreover, it is important to recognize that employers and employees are already paying the largest share of health care costs in this country. As a result, we believe that savings achieved by lowering health care costs and improving quality should continue to be the first and foremost sources of financing for health care reform.

Conclusion

In summary, we remain concerned about any provisions that would make health care more costly for employers and employees, destabilize our employer-based system of health coverage, or restrict the flexibility of employers to provide innovative health plans that meet the needs of their employees.

As Congress moves to formal consideration of legislation, we want to continue to work with all Members of Congress to enact reforms that not only allow Americans to keep the coverage they have today if they like it – and for most Americans, that means their employer-based coverage -- but make it possible for them to count on it being there tomorrow when they need it. Therefore comprehensive health care reform must start by first addressing the very real issues that drive up cost, preventing more employers from participating and more individuals from taking advantage of the public and private health care programs available to them.

April 1, 2009

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

The undersigned companies and associations applaud your commitment to comprehensive, bipartisan health care reform, and share your belief that all Americans should have access to affordable health care coverage. As voluntary providers of health care to more than 170 million Americans, employers are leading the way in helping to improve our health care system. While firmly committed to helping workers and their families meet their health care needs, employers are also struggling with health care costs.

We have a direct and real stake in the outcome of health reform efforts. For decades, employers have provided health benefits for solid business reasons. Since 1999, however, employment-based health insurance premiums have increased 120 percent, compared to cumulative inflation of 44 percent and cumulative wage growth of 29 percent during the same period. If we fail to improve our health care system, rising health care costs will threaten the viability of U.S. businesses of all sizes and put job security, pay increases and other vital employee benefits at risk for millions of American workers.

A strategy to control costs must be the foundation of any effort to improve the health care system. Controlling spiraling health care costs benefits every American seeking access to quality, affordable care and makes it possible for employers to continue their role as voluntary sponsors of health plans for their employees. Faced with a severe and continuing economic crisis, employers simply cannot absorb new burdens, such as specific coverage levels or payment requirements, no matter how well intentioned.

Fortunately, many of the proposals to control costs can also improve quality and value. Health IT is one example, but there are many others. Employers have led the way in driving for a higher quality, evidence-based health care system and have an urgent interest in finding solutions that foster continuous quality improvement.

Any successful reform effort must build on the strengths of America's voluntary employer-based system while ensuring there is a greater variety of affordable private health plan options in the marketplace for all. By making it easier, not harder, for employers to provide quality health coverage for workers and their families we can not only strengthen health security, we can strengthen our nation's economic security.

We are eager to work with you to find solutions for this urgent national priority.

Sincerely,

Acry Fab, Inc.
Aetna
Alcoa Inc.
Allegiance Benefit Plan Management, Inc.
American Administration Services Co.
American Airlines
American Bakers Association
American Benefits Council
American Boiler Manufacturers Association
American Farm Bureau Federation
American Hotel & Lodging Association
American Rental Association
American Society of Home Inspectors
American Staffing Association
American Veterinary Medical Association
AmeriGas Propane, Inc.
Aon Corp.
Arizona Chamber of Commerce
Associated Builders and Contractors, Inc.
Associated Industries of Massachusetts
Association of Equipment Manufacturers
Association of Ship Brokers & Agents
Assurant, Inc.
AT&T
Auntie Anne's, Inc.
Automotive Aftermarket Industry Association
Avaya Inc.
Ball Corporation
Battery Council International
Best Buy Co., Inc.
Birmingham (AL) Regional Chamber of Commerce
Bison Gear & Engineering
Boeing
BTE Technologies, Inc.
Buck Consultants, LLC.

Buffalo Wild Wings, Inc.
Business Roundtable
Case New Holland
Caterpillar Inc.
Chevron Corporation
Chicopee Chamber of Commerce (MA)
Chrysler LLC
CIGNA
Clark & Associates of Nevada, Inc.
Computing Technology Industry Association (CompTIA)
Corporate Healthcare Coalition
Darden Restaurants Inc.
Deere & Company
Delta Airlines
Deseret Mutual
Dollar General Corporation
DTE Energy
Eastman Kodak Company
EBS Advisors, Inc.
El Paso Corporation
Employers Council on Flexible Compensation
Exelon Corporation
Express Employment Professionals
F.C. Brengman & Associates
FMC Corporation
Food Marketing Institute
Ford
Fox Entertainment Group
Gap Inc.
Gateway Regional Chamber of Commerce (NJ)
General Mills
General Motors Corporation
Goodrich Corporation
Great Plains Energy Incorporated
Greater New Haven Chamber of Commerce
Harris Corp.
HealthCare 21 Business Coalition
Healthways
Honeywell
HR Policy Association
Independent Electrical Contractors
Independent Office Products & Furniture Dealers Association
Ingram Industries Inc.
Institute of Electrical and Electronics Engineers - United States of America
International Foodservice Distributors Association
International Franchise Association

International Housewares Association
JELD-WEN, Inc.
Jostens, Inc.
Koller Enterprises Inc.
Kraft Foods Inc.
Lamiglas, Inc.
Los Angeles (CA) Chamber of Commerce
Louisiana Business Group on Health
Lowe's Companies, Inc.
Manhattan Chamber of Commerce
Maryland Chamber of Commerce
MassMutual Financial Groups
Medco
Meridian Health
MetLife
Miles Fiberglass & Composites, Inc.
Mobile (AL) Area Chamber of Commerce
Monsanto Company
Montana Chamber of Commerce
Motor & Equipment Manufacturers Association
Motorola, Inc.
Mutual of Omaha
National Association of Computer Consultant Businesses
National Association of Convenience Stores
National Association of Health Underwriters
National Association of Home Builders
National Association of Manufacturers
National Association of Theatre Owners
National Association of Wholesaler-Distributors
National Burglar and Fire Alarm Association
National Business Group on Health
National Coalition on Benefits
National Federation of Independent Business
National Funeral Directors Association
National Lumber and Building Material Dealers Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Rural Electric Cooperative Association
National Tooling and Machining Association
New Jersey Chamber of Commerce
Northeastern Retail Lumber Association
Northwestern Mutual
Palm Desert (CA) Chamber of Commerce
Paul, Hastings, Janofsky & Walker LLP
Pharmaceutical Care Management Association

Phoenix Electric Mfg. Co.
Pietzsch, Bonnett & Womack, PA
PPG Industries
Precision Metalforming Association
Principal Financial Group
Printing Industries of America
Professional Golfers' Association of America
Quality Float Works, Inc.
Raytheon Company
Red Bud Industries, Inc.
Reno Sparks (NV) Chamber of Commerce
Retail Industry Leaders Association
Rochester Business Alliance (NY)
Ryder System, Inc.
Santa Clara (CA) Chamber of Commerce
Scottsdale (AZ) Chamber of Commerce
Sears Holdings Corporation
Sebago Lakes Region Chamber of Commerce (ME)
Self-Insurance Institute of America
Small Business & Entrepreneurship Council
Snyder's of Hanover
Society for Human Resource Management
Society of American Florists
Society of the Plastics Industry
South Carolina Business Coalition on Health
Specialty Equipment Market Association
Spring Consulting Group LLC
Stuart/Martin County (FL) Chamber of Commerce
SUPERVALU INC.
TechAmerica
Tempe (AZ) Chamber of Commerce
Textile Rental Services Association of America
The Adhesive and Sealant Council, Inc.
The Association for Suppliers of Printing, Publishing and Converting Technologies
The Black & Decker Corporation
The Council of Insurance Agents & Brokers
The Dow Chemical Company
The ERISA Industry Committee
The Financial Services Roundtable
The New Jersey Business and Industry Association
The Savitz Organization, Inc.
Timesavers, Inc.
Tire Industry Association
Tyco Electronics
U.S. Chamber of Commerce
U.S. Foodservice, Inc.

Union Pacific Corporation
United States Steel Corporation
Unum
UPS
Verizon Communications
Visant Corporation
Volvo Group North America
Waste Management
Wedding and Event Videographers Association International
WellPoint, Inc.
Western Growers
WillisHRH
Xerox Corporation
Yazaki North America Inc.

cc: Members of the U.S. House of Representatives
Members of the United States Senate